

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



May 10, 2002

TO: PARTIES OF RECORD IN CASE 01-12-032

This proceeding was filed on December 19, 2001, and is assigned to Commissioner Peevey and Administrative Law Judge (ALJ) Barnett. This is the decision of the Presiding Officer, ALJ Barnett.

Any party to this adjudicatory proceeding may file and serve an Appeal of the Presiding Officer's Decision within 30 days of the date of issuance (i.e., the date of mailing) of this decision. In addition, any Commissioner may request review of the Presiding Officer's Decision by filing and serving a Request for Review within 30 days of the date of issuance.

Appeals and Requests for Review must set forth specifically the grounds on which the appellant or requestor believes the Presiding Officer's Decision to be unlawful or erroneous. The purpose of an Appeal or Request for Review is to alert the Commission to a potential error, so that the error may be corrected expeditiously by the Commission. Vague assertions as to the record or the law, without citation, may be accorded little weight.

Appeals and Requests for Review must be served on all parties and accompanied by a certificate of service. Any party may file and serve a Response to an Appeal or Request for Review no later than 15 days after the date the Appeal or Request for Review was filed. In cases of multiple Appeals or Requests for Review, the Response may be to all such filings and may be filed 15 days after the last such Appeal or Request for Review was filed. Replies to Responses are not permitted. (See, generally, Rule 8.2 of the Commission's Rules of Practice and Procedure.)

If no Appeal or Request for Review is filed within 30 days of the date of issuance of the Presiding Officer's Decision, the decision shall become the decision of the Commission. In this event, the Commission will designate a decision number and advise the parties by letter that the Presiding Officer's Decision has become the Commission's decision.

/s/ CARL K. OSHIRO  
Carl K. Oshiro, Interim Chief  
Administrative Law Judge

CKO:tcg

Attachment

**PRESIDING OFFICER'S DECISION (Mailed 5/10/2002)**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Edward A. Sweeney,

Complainant,

vs.

San Diego Gas & Electric Company,

Defendant.

Paul B. Austin,

Intervenor.

Case 01-12-032  
(Filed December 19, 2001)

Edward A. Sweeney, for himself, Complainant,  
Monica Wiggins, for SDG&E, Defendant.  
Paul B. Austin, for himself, Intervenor.

**OPINION DENYING RELIEF**

On January 8, 2001, complainant contacted San Diego Gas & Electric Company (SDG&E) to request relocation of a power pole in the alley at the rear of his property at 935 G Avenue, Coronado. Complainant planned to build a garage on his property and the existing pole was in conflict with where he wanted to locate his garage and driveway. SDG&E requested a \$964.00 engineering fee to begin design of the relocation of the pole, which complainant paid. SDG&E prepared the design for the relocation and told complainant the cost to him would be \$12,454. Complainant asserts that SDG&E was negligent in

the placement of the present power pole and, therefore, should relocate the pole at its own expense. Because the power pole might be located near his property, Paul B. Austin intervened. Public hearing was held before ALJ Barnett on February 25 and April 15, 2002, and the matter submitted.

The location of the pole is not an issue. All parties agreed to a new location. The two issues are 1) whether SDG&E should pay for the move and 2) if complainant must pay, whether the cost is reasonable.

Complainant testified that the house lot at 935 G Avenue, Coronado was recorded in 1896. In 1925 SDG&E installed its distribution pole 4 feet north of the property line. In 1967 SDG&E installed a new pole 4 feet north of the original pole, i.e., 8 feet from the property line. SDG&E has located its other distribution poles in the 900 Block of G Avenue at the property lines such that they do not interfere with the property. The location of SDG&E's pole has made it impossible to build a dwelling on his lot in compliance with the City of Coronado Zoning Ordinance which requires his lot to have covered parking with ingress and egress from the alley.

Complainant testified he purchased the property at 935 G Avenue in 1977. The property contained a single residence, including an existing garage, adjacent to the pole in its present location. Complainant wants to remove the present dwelling and rebuild with an entirely different designed structure which requires the present driveway to be relocated. The current pole placement interferes with the new design, thus requiring the pole to be moved. He said good engineering practice requires poles be located and installed in compliance with all applicable laws, ordinances, rules, and regulations. SDG&E has reduced the value of his house lot by carelessly locating its pole such that the lot is not suitable for a dwelling without relocating the pole. He argues that because

SDG&E did not place the pole on the property line, it violated the zoning law and should move the pole at its expense.

Utility records indicate that the original pole was set in 1925 4 feet north of the property line. SDG&E does not know the conditions which may have influenced the decision for placement. In 1967, SDG&E replaced the pole with a new one because the old one was rotten. In accordance with SDG&E's operating practice, the new pole was set 4 feet north of the existing pole location to accommodate the transfer of wires, cross arms, and the replacement of the transformer, as well as to ensure proper General Order 95 clearance of service conductors. Since 1967, no additional modifications to the pole location have been made.

SDG&E agrees that today it is a standard industry practice of the California electric utilities to locate utility poles near property lines, where possible. SDG&E does not have historical information that indicates the exact location of the pole when it was initially set in 1925. SDG&E asserts it would be a violation of SDG&E's tariffs if it did not charge complainant for the relocation. Its Electric Rule 15.I.1, Facility Relocation or Rearrangement, states in part, "In all instances, utility shall, at its option, abandon or remove its existing facilities. Applicant or customer shall be responsible for the costs of all related relocation, rearrangement and removal work." Rule 15.I.1 protects ratepayers from bearing the burden of additional costs for relocation of existing facilities when there is no immediate ratepayer benefit from such relocation.

On the issue of costs, complainant introduced Exhibit 10, to the effect that SDG&E's estimate for moving the utility pole was too high. The exhibit estimated the cost at \$5,016. We have reviewed the exhibit and find it unpersuasive. It is not location specific nor functionally specific.

It is clear that when complainant purchased the property, the location of the utility pole did not interfere with the driveway on the property. It is only because complainant desires to rebuild with a different configuration of the new dwelling and driveway that the utility pole must be moved. There is no violation of a city ordinance or utility practice. The move is for the convenience of the complainant and complainant should pay for the move.

At the hearing, in order that the move of the utility pole not be delayed, the parties agreed that if complainant would deposit the cost of the move, \$12,454, with the Commission, SDG&E would move the pole. The parties agreed that should the Commission rule for complainant, the money would be refunded to him; if the Commission ruled for SDG&E, the money would be paid to SDG&E. We will direct the money to be paid to SDG&E, consistent with our holding.

### **Findings of Fact**

1. SDG&E first placed the power pole behind 935 G Avenue, Coronado in 1925, and replaced it in 1967. Complainant has not shown that SDG&E was negligent in placing the pole.
2. Complainant purchased the property in 1977, well aware of the location of the power pole.
3. Complainant seeks to develop his property and requires the power pole to be moved. The power pole is being moved for his convenience.
4. A reasonable estimate for the move of the power pole is \$12,454.

### **Conclusion of Law**

The Commission concludes that complainant should pay for the move of the power pole, effective immediately.

**O R D E R**

**IT IS ORDERED** that:

1. The relief requested by complainant is denied.
2. The \$12,454 on deposit shall be paid to San Diego Gas & Electric Company.
3. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.